

Assembly Bill No. 1230

CHAPTER 216

An act to amend Sections 3574 and 3577 of the Government Code, relating to higher education labor relations.

[Approved by Governor August 9, 2003. Filed with Secretary of State August 11, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1230, Hancock. Higher education labor relations: presentation of proof of support by employee organizations.

Existing law establishes the University of California, and provides for its administration by the Regents of the University of California. Existing law also establishes the California State University, and provides for its administration by the Trustees of the California State University.

Existing law, known as the Higher Education Employer-Employee Relations Act, contains provisions relating to employer-employee relations between the State of California and the employees of state institutions of higher education, including the various campuses of the University of California and the California State University, as well as the Hastings College of the Law. The act assigns major responsibilities for implementation to the Public Employment Relations Board. A provision of the act provides for, among other things, the determination of bargaining unit designations and the procedures for representation elections.

Existing law provides that, if an employee organization's claim of majority support is evidenced by the support of at least 10% of the members of the proposed unit, the board shall conduct inquiries and investigations, or hold hearings, as it deems necessary to decide the questions raised by the claim. Existing law also authorizes the board to conduct a representation election under these circumstances.

This bill would delete the provision requiring the board to conduct inquiries and investigations, or hold hearings, and authorizing the board to conduct a representation election, under these circumstances.

This bill would require that, if a petitioning employee organization provides proof of support of more than 50% of the members of the appropriate bargaining unit, and no other employee organization has provided proof of support of at least 30% of the members of the appropriate bargaining unit, then the employee organization providing proof of support of more than 50% of the members is to be certified as



the exclusive representative. The bill would provide that the existence of a memorandum of understanding, or current certification as the exclusive representative, is the proof of support necessary to trigger a representation election to determine majority support when a request for recognition is made by another employee organization.

The people of the State of California do enact as follows:

SECTION 1. Section 3574 of the Government Code is amended to read:

3574. The higher education employer shall grant a request for recognition filed pursuant to Section 3573 unless any of the following occurs:

(a) The employer reasonably doubts that the employee organization has majority support or reasonably doubts the appropriateness of the requested unit. In that case, the employer shall notify the board, which shall conduct a representation election or verify proof of majority support pursuant to Section 3577 unless subdivision (c) or (d) applies.

(b) Another employee organization either files with the employer a challenge to the appropriateness of the unit or submits a competing claim of representation within 15 workdays of the posting of notice of the written request. If the claim is evidenced by the support of at least 30 percent of the members of the proposed unit, a question of representation shall be deemed to exist and the board shall conduct a representation election pursuant to Section 3577. Proof of that support shall be submitted to either the board or to a mutually agreed upon third party.

(c) There is currently in effect a lawful written memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees included in the unit described in the request for recognition, unless the request for recognition is filed not more than 120 days and not less than 90 days prior to the expiration date of the memorandum of understanding, provided that, if the memorandum of understanding has been in effect for three years or more, there shall be no restriction as to the time of filing the request. The existence of a memorandum of understanding, or current certification as the exclusive representative, shall be the proof of support necessary to trigger a representation election pursuant to Section 3577 to determine majority support when a request for recognition is made by another employee organization.

(d) Within the previous 12 months, either another employee organization has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the



request for recognition, or a majority of the votes cast in a representation election held pursuant to Section 3577 were cast for “no representation.”

SEC. 2. Section 3577 of the Government Code is amended to read:

3577. (a) (1) (A) Upon receipt of a petition filed pursuant to Section 3575, the board shall conduct inquiries and investigations, or hold hearings, as it deems necessary in order to decide the questions raised by the petition. The determination of the board may be based upon the evidence adduced in the inquiries, investigations, or hearings.

(B) If the board finds, on the basis of the evidence, that a question of representation exists, or a question of representation is deemed to exist pursuant to subdivision (a) or (b) of Section 3574, it shall, in a case where the criteria of subparagraph (A) of paragraph (2) are not met, order that an election shall be conducted by secret ballot placing on the ballot all employee organizations evidencing support of at least 10 percent of the members of an appropriate unit, and it shall certify the results of the election on the basis of which ballot choice received a majority of the valid votes cast. There shall be printed on the initial ballot the choice of “no representation.”

(C) If, at any election, no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted. The ballot for the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(2) (A) If the petitioning employee organization provides proof of support of more than 50 percent of the members of the appropriate unit, and no other employee organization has provided proof of support of at least 30 percent of the members of the appropriate unit, the employee organization providing the proof of support of more than 50 percent of the appropriate unit shall be certified by the board as the exclusive representative, as provided in subdivision (a) of Section 3563 and, where applicable, in Section 3579. The procedures for determining proof of support shall be defined by regulations of the board.

(B) In the event the petitioning employee organization does not provide proof of support of more than 50 percent of the members of the appropriate unit, or another employee organization provides proof of support of at least 30 percent of the members of the appropriate unit, then the procedures of paragraph (1) shall apply.

(C) The existence of a memorandum of understanding, or current certification as the exclusive representative, shall be the proof of support necessary to trigger a representation election pursuant to this section to determine majority support when a request for recognition is made by another employee organization.



(3) An employee organization shall, at its discretion, submit proof of support for the purposes of this section either to the board or to a mutually agreed-upon third party.

(b) No election shall be held and the petition shall be dismissed whenever either of the following occurs:

(1) There is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees included in the unit described in the petition, unless the petition is filed not more than 120 days and not less than 90 days prior to the expiration date of that memorandum. If the memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition.

(2) Within the previous 12 months, either an employee organization other than the petitioner has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the petition, or a majority of the votes cast in a representation election held pursuant to subdivision (a) were cast for “no representation.”

